

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KEN WALTERS, *et al.*,

No. C-05-0035 PJH (EMC)

Plaintiffs,

v.

JERRY DEAN FREY, individually and doing  
business as J.D. FREY EXCAVATING,

Defendant.

**ORDER RE SUPPLEMENTAL  
BRIEFING AND EVIDENCE FOR  
PLAINTIFFS' MOTION FOR DEFAULT  
JUDGMENT  
(Docket No. 16)**

The Court has reviewed the supplemental brief and evidence filed by Plaintiffs on August 3, 2005. Having reviewed those documents, the Court hereby orders Plaintiffs to provide additional briefing and/or evidence.

First, Plaintiffs should provide the Court with the Master Agreement(s) that covers the years 1999 through 2001. The Master Agreement provided by Plaintiffs, which states that employers are to make certain contributions to the trust funds and will be bound by all the terms and conditions of each Trust Agreement, covers the years 2002 to 2006, which are not relevant to this litigation. *See* Supp. McBride Decl., Ex. B (Master Agreement).

Second, Plaintiffs should explain why the appropriate contribution rate is \$10.19 per hour. *See* McBride Decl., Ex. A (project agreements). More specifically, the trust funds at issue appear to be the health and welfare fund, the pension fund, the pensioned health and welfare fund, and the vacation and holiday fund. The hourly contribution rates for those respective funds, effective November 1, 2000, were as follows: \$4.10; \$3.25; \$0.74; and \$1.80. This would yield a total of

1 \$9.89 per hour, not \$10.19. While, under the project agreement, an additional \$0.30 per hour should  
2 be paid in supplemental dues, it is not clear why the supplemental dues should be considered part of  
3 the trust contributions.

4 Plaintiffs should file this supplemental briefing and/or evidence within a week of the filing  
5 date of this order.

6 **Plaintiffs should serve a copy of this order on Mr. Frey within three days of the filing of**  
7 **this order.**

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9 IT IS SO ORDERED.

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11 Dated: August 8, 2005

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14 EDWARD M. CHEN  
15 United States Magistrate Judge  
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